



ALAMEDA POINT ARARS TEMPLATE

**Alameda Point
Alameda, California**

August 8, 2007

Prepared for:

**Base Realignment and Closure
Program Management Office West
San Diego, California**

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Prepared under:

**Naval Facilities Engineering Command
Contract Number N68711-03-D-5104
Contract Task Order 130**

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TRANSMITTAL/DELIVERABLE RECEIPT

Contract No. **N68711-03-D-5104**

Document Control No. SULT.5104.0130.0042

TO: Contracting Officer
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DATE: 08/08/07
CTO: 0130
LOCATION: Alameda Point, Alameda, California

FROM:



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DOCUMENT TITLE AND DATE:

Alameda Point ARARS Template – Technical Memorandum

TYPE: Contractual Deliverable Technical Deliverable (DS) Other (TC)

VERSION: Final (e.g., Draft, Draft Final, Final) REVISION #: NA

ADMIN RECORD: Yes ; No CATEGORY: Confidential

SCHEDULED DELIVERY DATE: 08/09/07 ACTUAL DELIVERY DATE: 08/09/07

NUMBER OF COPIES SUBMITTED TO NAVY:

O/18C/13E/5D

O = original transmittal form
C = copy of transmittal form
E = enclosure
D = compact disk

COPIES TO: (Include Name, Navy Mail Code, and Number of Copies)

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**Subject: Alameda Point ARARs Template
Alameda Point, California
Contract Number N68711-03-D-5104, Contract Task Order 130**

Dear Ms. Haran:

Enclosed are 10 bound copies and four compact disks with PDF versions of the Alameda Point ARARs template. On one of the compact disks is the document in native Microsoft Word format. This document incorporates all changes made and requested by Navy during the various reviews. We are also forwarding by separate cover three bound copies and an electronic version on CD to Navy's administrative record.

Please call if you have any questions.

Sincerely,



Craig Hunter, Ph.D.
Project Manager

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1.0 INTRODUCTION

The U.S. Department of the Navy (Navy) has requested Tetra Tech EMI (TTEMI) develop supplemental standard applicable or relevant and appropriate requirements (ARAR) language for all forthcoming Naval Air Station (NAS) Alameda Point (Alameda Point) records of decision (ROD), Feasibility Studies (FS), and Proposed Plan. This template is not intended to be a comprehensive identification of ARARs. The purpose of the template is to ensure consistent discussion of the specific ARARs identified below. All ARARs should still be reviewed and identified according to the Navy's February 2007 "Standard Text for ARARs" and any subsequent updates. This template does not supercede the Standard Text for ARARs, it is intended to supplement it.

The requirements described in this template are to be included in all RODs involving relevant locations and actions even if the requirements were not included in the Feasibility Study or Proposed Plan for the site unless the Navy decides otherwise in a specific case. This template does not impact the eleven Alameda Point RODs that have been signed prior to the implementation of this template (Final RODs for Sites 1, 14, 15, 17, 25, 26, 27, 28, 29, and Operable Unit [OU]-1 and OU-5) to date.

The following sections present location- and action-specific ARAR language for RODs for Alameda Point.

Section 2.0 presents instructions (*in bold italicized red font*) and ARAR language for the following location-specific requirements:

- National Historic Preservation Act
- Endangered Species Act
- Migratory Bird Treaty Act
- Coastal Zone Management Act

Section 3.0 presents instructions (*in bold italicized red font*) and action-specific ARAR language for the following remedies:

- Institutional controls
- Groundwater monitoring
- Soil excavation and off-site disposal
- Underground Injection

Section 4.0 presents ARARs tables for the location- and action-specific ARARs in this Alameda template.

Section 5.0 contains references cited in support of the ARAR identification process.

2.0 LOCATION-SPECIFIC ARARs

[The bulleted ARARs and their citations will vary according to the site-specific instructions included below. The location specific ARARs addressed in this template are relevant for the specific IR sites identified in the template at the time it was created. It should be noted, that the term "IR Site" is intended to include the full extent of all releases of hazardous substances associated with the IR Site and any associated Solid Waste Management Units (SWMUs). All location specific ARARs should be reviewed for potential inclusion as an ARAR in every Feasibility Study, Proposed Plan, and ROD based upon site-specific information. It should not be assumed that a specific requirement is not an ARAR based solely on the exclusion of a site from any of the lists below.]

2.1 FEDERAL

The substantive provisions of the following federal requirements are ARARs for this site:

- *[Include this bullet for Sites 5, 10, 12, 32 and 35.]* National Historic Preservation Act of 1966, as amended, at 16 United States Code (USC) Section (§) 470, et seq. and its implementing regulations at Title 36 Code of Federal Regulations (36 CFR) part 800 requiring the federal government to minimize harm to properties listed on or eligible for listing on the National Register of Historic Places.
- *[Include this bullet for any offshore areas, any site identified in the runway area, and Site 2.]* Endangered Species Act of 1973 at 10 USC § 1536(a) and (h)(1)(B) prohibiting federal agencies from jeopardizing the continued existence of any listed species or cause the destruction or adverse modification of critical habitat.
- *[Include this bullet for all sites.]* Migratory Bird Treaty Act of 1972 at 16 USC § 703 protecting almost all species of native migratory birds in the U.S. from unregulated takings.
- *[Include this bullet for Sites 2, 11, 20, 21, 24, 32, 33, and 34.]* Coastal Zone Management Act at 16 USC § 1456(c) and 15 CFR § 930 requiring activities that affect the coastal zone be conducted in a manner consistent with approved state management programs. (See state location-specific ARARs below for approved management program requirements.)

National Historic Preservation Act

[Include this subsection for Sites 5, 10, 12, 32 and 35. These are federal ARARs; no State ARARs for historical places were identified. An Historic Architectural Resources Inventory was completed for Alameda in 1992 (Woodbridge 1992). This inventory identified buildings and structures located on Sites 5, 6, 8, 10, 12, 32 and 35 as eligible for inclusion on the National Register of Historic Places.]

The substantive provisions of Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470, et seq.) and their implementing regulations [36 C.F.R. pt. 800], as amended, are federal ARARs because the Navy has concluded that *[insert Building number or structure]* Site *[insert site number]* is eligible for inclusion on the National Register of Historic Places.

[For Sites 5, 10, 12, 32 and 35 the Navy should then identify/discuss the possible effects of the remedial action on the historic properties included in or eligible for inclusion in the National Register. If remedial action will have no effect on historic properties, the ARARs analysis should document a finding of “no historic properties affected” (36 CFR §800.4(d)). If the remedial action will have an effect on such resources, the Navy, as a lead agency, must then apply the Criteria of Adverse Effects and determine whether or not such effects are adverse effects (36 CFR §800.5). If it is determined that the effects are not adverse, the Navy must document this “finding of no adverse effect” (36 CFR §800.5(b)) in the ARARs analysis.

If it is determined that there will be adverse effects to historic properties, the ARAR requires mitigation of the adverse effects or a waiver of the ARAR. The description of the remedy must evaluate measures that would avoid, minimize, or mitigate adverse effects in accordance with the substantive requirements of 36 CFR §800.6 and document a “finding of adverse effect” to comply with the NHPA. Discussions with SHPO, ACHP (if they choose to participate), Native American tribes, and other interested parties may assist the Navy in developing meaningful mitigation measures. The mitigation measures developed to resolve adverse effects must also be identified in the ROD, Feasibility Study, and Proposed Plan.

[If the Navy is unable to resolve adverse effects to the satisfaction of the SHPO and ACHP, it shall take their comments into account and address them in the Responsiveness Summary in a manner consistent with the substantive requirements of 36 CFR §§800.6 and 800.7.]

Endangered Species Act

[Include this subsection for offshore areas, any site identified within the runway area, and Site 2. The Navy has conducted several consultations with the US Fish and Wildlife Service pursuant to Section 7 of the Federal Endangered Species Act to evaluate effects of proposed activities, or “actions,” on federally-listed endangered species. The most recent consultation was conducted in 1997 to address the proposed disposal of surplus property Alameda Point and local community reuse in accordance with the reuse plan. The Navy prepared a biological assessment for the consultation (Navy and Tetra Tech, Inc. 1997). The biological assessment concluded that no federally-listed endangered or threatened plants were known to occur at Alameda Point, and none had been found during previous surveys. The biological assessment

identifies five animal species have been observed at Alameda Point that are either federal or state listed or are proposed for listing: California least tern, California brown pelican, western snowy plover, and Chinook salmon. Habitat for these species is found primarily in the runway area, in Site 2, or offshore areas. These species are either federal endangered species listed at 50 CFR § 17.11 or state endangered species listed at California Code of Regulations (Cal. Code Regs.), Title (tit.) 14 § 670.5.]

[Insert the following language for offshore areas, any site identified in the runway area, and Site 2.]

The substantive provisions of the Endangered Species Act of 1973 at 10 USC § 1536(a) and (h)(1)(B) are ARARs because federal or state endangered species or their habitats are present on *[insert Site number here]*. (Navy and Tetra Tech 1997)

[Insert the following language for Sites with no endangered species or its habitat are present on site.]

The substantive provisions of the Endangered Species Act of 1973 at 10 USC § 1536(a) and (h)(1)(B) are not ARARs because neither federal or state endangered species, nor their habitats are present on Site *[insert Site number here]*. (Navy and Tetra Tech 1997)

Migratory Bird Treaty Act

[Migratory birds have been identified at Alameda Point. The presence of migratory birds or their habitats means that the substantive provisions of the Migratory Bird Treaty Act of 1972 will be a relevant and appropriate ARAR. Migratory birds are present throughout Alameda Point. (Navy and Tetra Tech 1997).

It is the Navy's position that this act is not legally applicable to Navy actions; however, Exec. Order No. 13186 (dated 10 January 2001) requires each federal agency taking actions that have or are likely to have a measurable effect on migratory bird populations to develop and implement, within 2 years, a memorandum of understanding with the United States Fish and Wildlife Service (USFWS) to promote the conservation of such populations. The Department of Defense (DoD) recently signed (July 2006) a Memorandum of Understanding (MOU) with the United States Fish and Wildlife Service. The MOU will be evaluated when a remedial action is necessary. The MOU describes the responsibilities of the DoD with respect to conservation of migratory birds for all DoD activities, including "hazardous waste cleanup." DoD's specific responsibilities are spelled out in Section D.2.e. and f. of the MOU.

These are "relevant and appropriate" federal ARARs; no State ARARs were identified for migratory birds.]

[Insert the following language for all sites.]

The substantive provisions of the Migratory Bird Treaty Act (16 U.S.C. § 703) are relevant and appropriate ARARs because migratory birds are present on NAS Alameda and may pass through Site *[insert number here]*. The provisions of 16 U.S.C. § 703 prohibit at any time, using any means or manner, to pursue, hunt, capture, and kill or attempt to take, capture, or kill any migratory bird. Also prohibited is the possession, sale, export, and import of any migratory bird or any part of a migratory bird, as well as nests and eggs. The Navy has concluded that the selected remedy will not affect any migratory birds. *[If the selected remedy will affect migratory birds, replace the last sentence above discussing how the Navy will comply with this ARAR.]*

Coastal Zone Management Act

[As stated in the Standard Text for ARARs, the Coastal Zone Management Act should be identified as a federal ARAR for sites that have a portion or are entirely located within the coastal zone. Since California has an approved coastal zone management plan, the Coastal Zone Management Act is potentially relevant and appropriate for areas considered under the jurisdiction of the State coastal management plan. The federal Coastal Zone Management Act should be identified as relevant and appropriate for Alameda sites that fall under the jurisdiction of the State ARARs discussed below. If the site is not under the jurisdiction of the State ARARs below, it is considered to be not within the coastal zone and the federal Coastal Zone Management Act should not be identified as a potential ARAR.]

2.2 STATE

The California Coastal Act of 1976 is codified at Public Resources Code (Cal. Pub. Res. Code) §§ 30000–30900 and Cal. Code Regs. tit. 14, §§ 13001–13666.4. These sections regulate activities associated with development to control direct significant impacts on coastal waters and to protect state and national interests in California coastal resources. However, §30103 specifically excludes the areas under the jurisdiction of the San Francisco Bay Conservation and Development Commission (BCDC), established pursuant to the McAteer Petris Act at Cal. Gov. Code, tit. 7.2 commencing with §66600. Under Cal. Gov. Code, tit. 7.2, §66610(b), the jurisdiction of the BCDC is a shoreline band 100 feet inland of and parallel to the shoreline. *[The following Alameda sites are expected to be within 100 feet of the shoreline: Sites 2, 11, 20, 21, 24, 32, 33, and 34. Therefore, include the following language for these sites.]*

Therefore, the Navy has identified the substantive provisions of the following requirements as State location-specific relevant and appropriate ARARs:

- McAteer-Petris Act (California Government Code §§ 66600 through 66661 as authorizing legislation for the San Francisco Bay Plan) and the San Francisco Bay Plan at Cal. Code Regs. tit. 14, §§ 10110 through 11990 regulating activities that affect the San Francisco Bay.

McAteer-Petris Act and the San Francisco Bay Plan

The Coastal Zone Management Act was evaluated and certain substantive provisions were determined to be relevant and appropriate federal requirements because the remedial action contemplates activity within the coastal zone. Coastal Zone Management Act at 16 USC § 1456(c)(1)(A) and CFR § 930 requires each federal agency activity within or outside the coastal zone that affects any land or water use or natural resource to conduct its activities in a manner that is consistent to the maximum extent practicable with enforceable policies of approved state management policies. The State of California's approved coastal management program includes the McAteer-Petris Act, the authorizing legislation for the San Francisco Bay Plan, developed by the Bay Conservation and Development Commission. Substantive provisions of this statute and plan are state ARARs. The remedial actions selected will be completed in a manner consistent with the substantive provisions of the San Francisco Bay Plan which include limitations on filling the Bay, promoting public access, regulating development, and the minimization of harmful effects on the Bay.

[For Alameda sites that are not within 100 feet of the shoreline, use the following language:]

[Fill in Site name] is not within the coastal zone and no potential State coastal zone ARARs were identified for this response action.

3.0 ACTION-SPECIFIC ARARS

3.1 INSTITUTIONAL CONTROLS

[The EPA has recently updated their position on ICs in comments on the Site 35 RI/FS. USEPA considers the following provisions of Cal. Code Regs. tit. 22, § 67391.1 to be relevant and appropriate for [fill in site]: (a)(1), (a)(2), (d), (e)(1) and (e)(2). Substitute this language in at the end of the ICs text and in the comments on the table. See Table 4.2. Follow the Standard text for ARARs otherwise.]

3.2 GROUNDWATER MONITORING

[Corrective action monitoring: Insert the following language for groundwater remedies that include a groundwater cleanup action. If the site does not include a groundwater cleanup action, the corrective action monitoring and demonstration monitoring would not be ARARs. Leave this section out and go to the next section on detection monitoring.]

Although not potentially applicable since *[fill in site]* is not a current or former regulated unit and no new RCRA treatment, storage, or disposal unit is being proposed, the substantive provisions of the following Resource Conservation and Recovery Act (RCRA) corrective action groundwater monitoring requirements are relevant and appropriate federal action-specific ARARs. *[If the site is or was a regulated or a new unit is proposed as part of the remedial*

action, this language would need to be revised and may result in the monitoring requirements being applicable. This groundwater monitoring is for a groundwater cleanup action.]

Details on the requirements of these ARARs are included in Table *[insert action-specific table number here.]*

- Cal. Code Regs. tit. 22 § 66264.100(d) requires a corrective action monitoring program to demonstrate the effectiveness of the corrective action program.
- Cal. Code Regs. tit. 22 § 66264.100(g)(1) requires continuing the groundwater monitoring under the corrective action program until in compliance for a year.
- Cal. Code Regs. tit. 22, § 66264.93 defines constituents of concern as the waste constituents, reaction products, and hazardous constituents that are reasonably expected to be in or derived from waste contained at the site.
- Cal. Code Regs. tit. 22, §66264.95(a) and (b) define the point of compliance. *[These may be ARARs if the site is or was a waste management unit or similar and waste will be left in place. An example would be Site 1 where the landfill waste is similar if not identical to a landfill and the waste will be left in place. These may not be ARARs if there is no known source for the groundwater contamination or no waste is left in place at the site. See the Standard Text for ARARs Section X2.2.1.1 for more guidance.]*
- Cal. Code Regs. tit. 22, §§ 66264.97(b)(1)(A), 66264.97 (b)(1)(D)(1) and (b)(1)(D)(2), 66264.97(b)(2), 66264.97(b)(4) – (7), 66264.97(e)(6), 66264.97(e)(12)(A) and (B), 66264.97(e)(13), 66264.97(e)(15) are general monitoring requirements.

The substantive provisions of the following are ARARs because they are more stringent than the federal requirement of Cal. Code Regs. tit. 22 6626.100(g)(1):

- Cal. Code Regs. tit. 27, 20430(g)(2): Requires eight evenly spaced sampling events to demonstrate compliance with groundwater remedial goals. *[This is more stringent than the federal ARAR that does not specify eight evenly spaced sampling events. However, the state ARAR should only be included if submitted by the state. Refer to Cal. Code Regs. tit.23, 2550.0 and Cal. Code Regs. tit. 27, 20380 to determine whether applicable. If not applicable, evaluate to determine whether relevant and appropriate using the criteria in Section XI.1 of the Standard Text for ARARs.]*

[Detection monitoring. Insert the following language for groundwater corrective actions and other remedies that include a detection monitoring program. Detection monitoring is required under Cal. Code Regs. tit. 22, § 66264.91(a) for at least three years of compliance under Cal. Code Regs. tit. 22, § 66264.90(c)(1) and is also required during the corrective action monitoring program under § 66264.91(c). Once the corrective action monitoring has been in compliance for a year, an additional 2 years of detection monitoring are required to demonstrate 3 years of compliance. In addition, if waste is left in place detection monitoring is

required under Cal. Code Regs. tit. 22, § 66264.117(b)(1)(A) and (b)(2)(A) for a time period based on risk. Evaluation monitoring may be required if significant evidence of release is detected under Cal. Code Regs. tit. 22, § 66264.91(a)(2) and (3). Detection monitoring is also required during the evaluation monitoring under Cal. Code Regs. tit. 22, § 66264.91(c).]

[Insert the following paragraph if the detection monitoring is part of a corrective action. Do not include the following paragraph if detection monitoring will be conducted without conducting a corrective action for groundwater.]

The substantive provisions of the following RCRA detection and evaluation groundwater monitoring Detection monitoring will be conducted during the groundwater corrective action. Once the groundwater remedial goals have been met for a period of one year, the Navy will continue a groundwater detection monitoring program for two years to demonstrate continued compliance.

[Insert the following paragraph if detection monitoring is included because waste was left in place but no corrective action was part of the remedial action. Do not include if the above paragraph is used.]

Detection monitoring will be conducted to demonstrate compliance for at least three years under Cal. Code Regs. tit. 22, § 66264.91(a)(1) and Code Regs. tit. 22, § 66264.90(c)(1).

Evaluation monitoring will be conducted in the event that significant evidence of release is discovered under Code Regs. tit. 22, § 66264.91(a)(2) and (3). *[Insert the following sentence only if waste will be left in place.]* Additional detection monitoring will be conducted under 117(b)(1)(A) and (b)(2)(A) for a time based on risk.

Requirements are relevant and appropriate federal action-specific ARARs. Details on the requirement of these ARARs are included in Table *[insert action-specific table number here.]*

- Cal. Code Regs. tit. 22, § 66264.98(e)(1)-(e)(5), 66264.98(i), 66264.98(j), 66264.98(k)(1)-(k)(3), 66264.98(k)(4)(A), 66264.98(k)(4)(D), 66264.98(k)(5), 66264.98(k)(7)(C) and (D), 66264.98(n)(1), 66264.98(n)(2)(B), and (n)(2)(C) provide detection monitoring requirements.
- Cal. Code Regs. tit. 22, § 66264.99(b), 66264.99(e)(1)-(e)(6), 66264.99(f)(3) and (g) provide evaluation monitoring requirements.
- Cal. Code Regs. tit. 22, § 66264.90(c)(1) and (c)(2) are used to determine when detection and evaluation monitoring are no longer required.
- *[Include only if waste will be left in place]* Cal. Code Regs tit. 22, § 66264.117(b)(1)(A) and (b)(2)(A) postclosure monitoring.

3.2 SOIL EXCAVATION AND OFF-SITE DISPOSAL

[Insert the following language when soil excavation and off-site disposal is part of the selected remedy.]

The Navy will stockpile excavated soil in RCRA temporary staging piles for off-site disposal. The RCRA temporary staging pile requirements (40 CFR § 264.554(d) (1)(i–ii) and (d)(2), (h), (i), (j), and (k)) allow generators of RCRA hazardous waste to accumulate solid remediation waste in a staging pile for up to two years without meeting land disposal restrictions. The Navy will characterize excavated soil and any other waste generated during construction and operations of the soil and groundwater remedies according to RCRA characterization requirements. The Navy will comply with the substantive provisions of the chemical-specific ARARs used to determine if the excavated soil is a regulated waste. If excavated soil is a regulated waste, the Navy will comply with all legally applicable requirements for off-site disposal.

The substantive provisions of the following requirements are federal ARARs and are the most stringent of the potential federal and state action-specific ARARs for excavation.

Resource Conservation and Recovery Act (42 U.S.C. §§ 6901–6991[i]):

- Cal. Code Regs. tit. 22, §§ 66262.10(a), 66262.11, 66264.13(a) and (b) provide requirements to characterize and analyze generated waste.
- 40 CFR § 264.554(d)(1)(i–ii), (d)(2), (e), (f), (h), (i), (j), and (k) allow for temporarily stockpiling soil prior to disposal without meeting land disposal restriction requirements.
- Cal. Code Regs. tit. 22, § 66264.258(a) and (b) are requirements for closing the temporary stockpiles.

Clean Air Act (42 USC §§ 7401–7671):

- Bay Area Air Quality Management District Regulation 6-302 prohibits emissions from any source for a period of more than 3 minutes in an hour equal to or greater than 20 percent opacity.

[Insert the following language if the soil to be excavated is contaminated with volatile organic compounds [VOC]. See Standard text for ARARs for table entry.]

- Bay Area Air Quality Management District Regulation 8-40-*[fill in applicable section(s) from Standard Text for ARARs]* requires soil contaminated with VOCs in active stockpiles be kept visibly moist or covered.

Clean Water Act (33 USC, ch. 26, §§ 1251–1387):

[Insert the following language if the area affected by the excavation, including roads leading to the excavation and excavation equipment storage area, is at least 1 acre in size.]

On November 16, 1990, U.S. EPA final regulations implementing Section 402(p) of the Clean Water Act (CWA) setting forth the requirements for the Phase I Stormwater NPDES permit requirements were promulgated (55 Fed. Reg. 47990). U.S. EPA's Phase I Stormwater NPDES regulations require that owner/operators of construction activities obtain permit coverage and be in compliance with discharge standards. The Phase II Stormwater Rule was promulgated on 08 December 1999. On 10 March 2003, the new Phase II regulations came into effect. The Phase II requirements effectively lowered the size limit on construction activities covered by the requirements from those disturbing 5 acres or more (Phase I) to 1 acre or more (Phase II).

The substantive provisions of the following Clean Water Act requirements are federal ARARs because the remedial action will disturb at least 1 acre:

- Clean Water Act § 402(p) and implementing regulations at 40 CFR § 122.44(k)(2) and (4) require best management practices (BMP) to control or abate storm water discharges.

Under the Clean Water Act and its implementing regulations, individual National Pollutant Discharge Elimination System permits or coverage under promulgated stormwater general permits is required for construction that disturbs at least 1 acre. The state of California has promulgated a stormwater general permit at Order Number 99-08-DWQ. Under CERCLA § 121(e)(1), no federal, state, or local permit is required for any remedial action conducted entirely on site, where it is selected and carried out in compliance with CERCLA § 121. Therefore, the Navy is not required to obtain an individual stormwater permit or submit a notice of intent to discharge under the state's general permit. However, the Navy will use the substantive requirements of the state's general permit for stormwater discharges as to-be-considered criteria for complying with the requirement to apply best management practices for stormwater discharges promulgated under the Clean Water Act § 402(p) and 40 CFR § 122.44(k)(2) and (4) and related State laws. Substantive provisions of BMPs, SWPPPs [Storm Water Pollution Prevention Plan] and monitoring are TBC guidance for complying with federal and State water quality ARARs.

3.3 UNDERGROUND INJECTION

[Insert the following language when underground injection is proposed, such as in-situ biosparging (ISB) or in-situ chemical oxidation (ISCO).]

This alternative involves injection or placement of chemicals into groundwater for *[add the proposed action such as ISB or ISCO]*. The Safe Drinking Water Act (42 USC § 300[f-j]-26) Underground Injection Control Program regulations at 40 C.F.R. pt. 144 were evaluated as potential ARARs for this alternative. The injection wells for this alternative would be considered Class V wells under these regulations. The substantive provisions of 40 C.F.R. § 144.12 (a) and § 144.82 (a)(1) are potentially applicable for the injection of treatment chemicals for this alternative. Section 144.12 (a) prohibits injections that allow movement of fluids containing contaminants into underground sources of drinking water in violation of primary

drinking water standards or that could adversely affect human health. Section 144.82 (a)(1) states that the injection cannot allow the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of the primary drinking water standards under 40 C.F.R. pt. 141, other health based standards, or may adversely affect the health of persons. The injection of treatment chemicals under this alternative is not expected to result in a violation of primary drinking water standards or to adversely affect human health. The treatment chemicals will treat VOCs and reduce the threat to water quality and human health.

RCRA Section 3020(a), which bans hazardous waste disposal by underground injection above a formation that contains an underground source of drinking water, does not apply to this action because commercial chemical products injected into groundwater for *in-situ* treatment are not considered hazardous waste.

4.0 ARARS TABLES

The following location- and action-specific ARARs tables present the text to be inserted in ARARs tables in the ROD, Feasibility Study, and Proposed Plan. Insert the location- or action-specific ARARs table language as appropriate.

Table 4.1 LOCATION-SPECIFIC ARARs

Federal ARARs					
National Historic Preservation Act of 1966, as Amended 16 USC Section 470-470x-6^a					
Location	Requirement	Prerequisite	Citation	ARAR Determination	Comments
Historic project owned or controlled by federal agency	Action should preserve historic properties; planning of action should minimize harm to properties listed on or eligible for listing on the National Register of Historic Places.	Property included in or eligible for the National Register of Historic Places	16 USC § 470-470x-6; 36 CFR pt. 800	Applicable	<i>[Include this entry for Sites, 5,10, 12, 32 and 35 only] Building [or structure] [insert number here] is eligible for inclusion on the National Register of Historic Places. The selected remedy will not adversely affect building [Insert number here.]</i>
Endangered Species Act of 1973 (16 USC Sections 1531–1543)^a					
Habitat upon which endangered species or threatened species depend	Federal agencies may not jeopardize the continued existence of any listed species or cause the destruction or adverse modification of critical habitat. The Endangered Species Committee may grant an exemption for agency action if reasonable mitigation and enhancement measures such as propagation, transplantation, and habitat acquisition and improvement are implemented.	Determination of effect upon endangered or threatened species or its habitat. Critical habitat upon which endangered species or threatened species depend.	16 USC § 1536(a), (h)(1)(B)	Applicable	<i>[Include this for offshore areas, any site identified within the runway area, and Site 2. The Navy prepared a biological assessment for consultation with the U.S. Fish and Wildlife Service (Navy and Tetra Tech, Inc. 1997). The biological assessment concluded that no federally-listed endangered or threatened plants were known to occur at Alameda Point, and none had been found during previous surveys. The biological assessment identifies five animal species have been observed at Alameda Point that are either federal or state listed or are proposed for listing: California least tern, California brown pelican, western snowy plover, and Chinook salmon. Habitat for these species is found primarily in the runway area, in Site 2, or offshore areas.] The Navy will comply with this ARAR when performing the selected remedial action by [insert brief discussion of compliance.] The Navy will consult with the U.S Fish and Wildlife Service; however, the consultation regulations at 50 CFR § 402 are administrative in nature and, therefore, not ARARs.</i>

Migratory Bird Treaty Act (16 USC § 703-712)^a

Migratory bird area	Protects almost all species of native birds in the U.S. from unregulated “take” that can include poisoning at hazardous waste sites.	Presence of migratory birds.	16 USC § 703	Relevant and appropriate	<i>[Include this entry for all sites.]</i> Migratory birds are present at NAS Alameda and may pass through Site <i>[insert site number here.]</i> <i>[Determine the affect of the planned response action on migratory birds.]</i>
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Coastal Zone Management Act (16 USC §§ 1451 – 1464)^a

Within coastal zone	Conduct activities in a manner consistent with approved state management programs.	Activities affecting the coastal zone, including land under and adjacent to shore land.	16 USC § 1456(c) 15 CFR § 930	Relevant and Appropriate	<i>[Include this entry for Sites 2, 11, 20, 21, 24, 32, 33 and 34 only.]</i> Coastal Zone Management Act § 1456(c)(1)(A) requires each federal agency activity within or outside the coastal zone that affects any land or water use or natural resource to conduct its activities in a manner that is consistent to the maximum extent practicable with enforceable policies of approved state management policies. The State of California’s approved coastal management program includes the McAteer-Petris Act, the authorizing legislation for the San Francisco Bay Plan developed by the Bay Conservation and Development Commission. Substantive provisions of this statute and plan are state ARARs. The remedial actions selected in this ROD are in compliance with the purposes of the San Francisco Bay Plan.
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State ARARs**McAteer-Petris Act (California Government Code §§66600 through 66661)^a**

Within the San Francisco Bay coastal zone	Reduce fill and disposal of dredged material in San Francisco Bay, maintain marshes and mudflats to the fullest extent possible to conserve wildlife, abate pollution, and protect the beneficial uses of the bay.	Activities affecting San Francisco Bay and 100 feet of the shoreline.	San Francisco Bay Plan at Cal. Code Regs. tit. 14, §§ 10110 through 11990	Relevant and appropriate	<i>[Include this entry for Sites 2, 11, 20, 21, 24, 32, 33 and 34 only.]</i> The remedial action selected is in compliance with the substantive purposes of the San Francisco Bay Plan.
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Notes:

- a Statutes and policies, and their citations, are provided as headings to identify general categories of ARARs for the convenience of the reader; listing the statutes and policies does not indicate that the Navy accepts the entire statutes or policies as ARARs; specific ARARs are addressed in the table below each general heading; only substantive requirements of the specific citations are considered ARARs.

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Table 4.2 ACTION-SPECIFIC ARARs

INSTITUTIONAL CONTROLS					
Cal/EPA Department of Toxic Substances Control (Cal. Code Regs., tit. 22, § 67391.1) ^a					
Land use covenants	A land use covenant imposing appropriate limitations on land use shall be executed and recorded when facility closure, corrective action, remedial or removal action, or other response actions are undertaken and hazardous materials, hazardous wastes or constituents, or hazardous substances will remain at the property at levels which are not suitable for unrestricted use of the land.	Property transfer by federal government to nonfederal entity.	Cal. Code Regs., tit. 22, § 67391.1	Relevant and Appropriate	<p><i>[Include this entry for all sites.]</i> The Navy has determined that the substantive provisions of this regulation are relevant and appropriate when the Navy is transferring property to a nonfederal agency.</p> <p>EPA specifically considers substantive provisions of §§ (a)(1), (a)(2), (d), (e)(1) and (e)(2) to be ARARs for this ROD.</p> <p>DTSC’s position is that this regulation is an ARAR.</p>
GROUNDWATER MONITORING <i>[Include these entries for all groundwater monitoring sites to match text.]</i>					
Federal					
Resource Conservation and Recovery Act (42 U.S.C. §§ 6901–6991[i])					
Monitoring	The owner or operator shall establish and implement, in conjunction with the corrective action measures, a water quality monitoring program that will demonstrate the effectiveness of the corrective action program and be effective in determining compliance with the water quality protection standard and in determining the success of the corrective action measures under subsection (c) of this section.	Hazardous waste treatment, storage, or disposal facility.	Cal. Code Regs. tit. 22, § 66264.100(d)	Relevant and Appropriate	This section is an ARAR for groundwater monitoring.

Chemicals of concern	Identify constituents of concern including the waste constituents, reaction products, and hazardous constituents that are reasonably expected to be in or derived from waste contained in the regulated unit.	Hazardous waste treatment, storage, or disposal facility.	Cal. Code Regs. tit. 22, § 66264.93	Relevant and Appropriate	This section is an ARAR for groundwater monitoring.
Point of compliance	The POC is a vertical surface, located at the hydraulically downgradient limit of the waste management area that extends through the uppermost aquifer underlying the regulated unit.	Hazardous waste treatment, storage, or disposal facility.	Cal. Code Regs. tit. 22, § 66264.95(a) and (b)	Relevant and Appropriate	This section is an ARAR for groundwater monitoring.
Monitoring	Requirements for monitoring groundwater, surface water, and the vadose zone.	Hazardous waste treatment, storage, or disposal facility.	Cal. Code Regs. tit. 22, § 66264.97(b)(1)(A), (b)(1)(B) and (C), 66264.97(b)(4)-(7), 66264.97(e)(6), 66264.97(e)(12)(A) and (B), 66264.97(e)(13), and 66264.97(e)(15)	Relevant and Appropriate	These sections are an ARAR for groundwater monitoring.
	Requirements for a detection monitoring program.	Hazardous waste treatment, storage, or disposal facility.	Cal. Code Regs. tit. 22, § 66264.98(e)(1-5), (i), (j), (k)(1-3), (4)(A) and (D),(5), (7)(C) and (D),(n)(1),(2)(B), and (C)	Relevant and Appropriate	These sections are an ARAR for groundwater monitoring.
	Requirements for an evaluation monitoring program.	Hazardous waste treatment, storage, or disposal facility.	Cal. Code Regs. tit. 22, § 66264.99(b), (e)(1)-(6), (f)(3), and (g)	Relevant and Appropriate	These sections are an ARAR for groundwater monitoring.

Requires continued monitoring until the regulated unit has been in compliance with the water quality protection standard for a period of three consecutive years and all waste, waste residues, contaminated subsoils and all other contaminated geologic materials are removed or decontaminated at closure.	Hazardous waste treatment, storage, or disposal facility.	Cal. Code Regs. tit. 22, § 66264.90(c)(1) and (c)(2)	Relevant and Appropriate	These sections are an ARAR for groundwater monitoring.
Postclosure monitoring is based on site risk and may be lengthened or shortened accordingly.	Hazardous waste treatment, storage, or disposal facility.	Cal. Code Regs. tit. 22, § 66264.117(b)(1)(A) and (b)(2)(A)	Relevant and appropriate	These sections are an ARAR for groundwater monitoring.

State

State Water Resources Control Board

For compliance demonstration each "must have remained at or below its respective concentration limit during a proof period of at least one year . . . and . . . (2) each Monitoring Point must have been evenly distributed throughout the proof period and have consisted of no less than eight sampling events per year per Monitoring Point."	Waste discharged after 18 July 1997.	Cal. Code Regs. tit. 27, § 20430(g)(1)	Relevant and Appropriate	This section is an ARAR for groundwater monitoring.
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SOIL EXCAVATION AND OFF-SITE DISPOSAL

Resource Conservation and Recovery Act (42 USC §§ 6901–6991(j))

Waste characterization	Person who generates waste shall determine if that waste is a hazardous waste.	Generator of waste.	CCR Title 22, § 66262.10(a), 66262.11	Applicable	Substantive provisions are applicable for operations where waste soil is generated. The determination of whether wastes generated during remedial activities are hazardous will be made at the time the wastes are generated.
Waste characterization	Requirements for analyzing waste for determining whether waste is hazardous.	Generator of waste.	CCR Title 22, § 66264.13(a) and (b)	Applicable	Substantive provisions are applicable for characterizing generated waste soil or groundwater.

Closure of staging pile	At closure, owner shall remove or decontaminate all waste residues, contaminated containment system components, contaminated subsurface soils, and structures and equipment contaminated with wastes and leachate, and manage them as hazardous wastes. If wastes are left on-site, perform postclosure care in accordance with the closure and postclosure care requirements that apply to landfills.	Waste pile used to store hazardous waste	Cal. Code Regs. tit. 22, § 66264.258(a) and (b) except references to procedural requirements	Applicable	<i>[Include this entry for staging soil /waste.]</i> Potentially applicable for excavated soils. <i>[Revise this to relevant and appropriate if the waste is not potentially a hazardous waste.]</i>
	Allows generators to accumulate solid remediation waste in a U.S. EPA-designated pile for storage only, up to 2 years, during remedial operations without triggering LDRs.	Hazardous remediation waste temporarily stored in piles.	40 CFR § 264.554(d)(1)(i-ii) and (d)(2), (h), (i), (j), and (k)	Applicable	Substantive provisions are applicable for soil excavated and staged prior to characterization and off-site disposal.
Clean Air Act (42 USC §§ 7401–7671)					
Excavation	A person shall not emit from any source for a period or periods aggregating more than 3 minutes in any hour a visible emission which is as dark as or darker than No. 1 on the Ringelmann chart or of such opacity as to obscure an observer's view to an equivalent or greater degree.	Excavation	BAAQMD Regulation 6, § 302	Applicable	Potentially applicable for the <i>[Fill in action that may cause visible emission such as excavation or other soil disturbance.]</i>

Clean Water Act, as Amended (33 USC, ch. 26, §§ 1251–1387)

Discharge to surface waters	Owners and operators of construction activities must be in compliance with discharge standards.	Construction involving one acre or more of soil disturbance	CWA Section 402 (33 U.S.C. ch. 26, § 1342); 40 CFR § 122.44(k)(2) and (4)	Applicable	<i>[Potentially ARARs for construction activities one acre or more in size that have the potential to discharge pollutants to surface water.]</i>
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UNDERGROUND INJECTION

Safe Drinking Water Act (42 USC § 300[f]-j)-26)

Underground injection	The UIC program prohibits injection activities that allow movement of contaminants into underground sources of drinking water that may result in violations of primary drinking water standards, other health based standards, or adversely affect health.	Any underground injections are prohibited unless permitted.	40 C.F.R. § 144.12 (a) and 144.82 (a)(1)	Applicable	<i>[Include this entry for sites that propose injection of chemicals into groundwater such as for ISCO or ISB. Revise comment to fit actual proposed action(s).]</i> Substantive provisions of 40 C.F.R. § 144.12 (a) and 144.82 (a)(1) are potentially applicable for injecting <i>[insert media, i.e. air]</i> into the groundwater. Injection wells for <i>[insert technology, i.e. biosparging]</i> would be Class V wells under the UIC program. The injection of air would not cause the shallow groundwater at <i>[add Site name]</i> to violate primary drinking water standards, other health based standards, or adversely affect human health.
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5.0 REFERENCES

U.S. Department of the Navy and Tetra Tech, Inc. 1997. "The Biological Assessment for Disposal and Reuse of NAS Alameda and Fleet and Industrial Supply Center, Alameda Facility and Annex, Alameda, California." September.

Woodbridge, S.B. 1992. "Historic Architectural Resources Inventory for Naval Air Station, Alameda."